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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/733,648

12/12/2003

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A8554

1631

23373 7590 -10/16/2007  
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EXAMINER

THOMAS, ERIC M

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

10/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/733,648

Applicant(s)

POLAK ET AL.

Examiner

Eric M. Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-47, 51, 52 and 54-61 is/are pending in the application.
- 4a) Of the above claim(s) 1, 48-50 and 53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-47, 51, 52 and 54-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group II claims 2 – 47, 51 – 52, and 54 – 61 in the reply filed on 8/21/07 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure fails to discuss the relationship of credit card and the present invention, which is considered to be new matter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 4, 5, 7 – 9, 11 – 13, and 18 – 22, 24 – 29, 38 – 46, 51, 52, 54, 55, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S.**

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**6,203,011) in view of Stoken (U.S. 5,657,899) and in further view of Katz (U.S. 2003/0060261).**

Regarding claims 2 and 3, Nulph provides a prepaid wagering card, (col. 9, lines 15 – 16), wherein the entries disclose a lottery format on at least one side of the wagering card that includes a plurality of random numbers wherein activation information is provided on at least one side of the wagering card, wherein the activation of the wagering card is a requirement or prerequisite to playing the wagering card game (col. 1, lines 30 – 33 and fig. 4). Nulph also discloses that the user is able to redeem the wagering card to claim a prize, if it is a winning ticket, (col. 6, lines 5 – 11), but is silent on the issue of the prepaid wagering card having a first and second side. In a related art, however, Stoken teaches of a wagering card, wherein the card has a front and back view (col. 8, lines 17 – 20, figs. 1 and 2). Therefore, it would have been obvious to one ordinary skill in the art at the time of invention to the two-sided wagering card of Stoken into the art of Nulph in order provide information on the card that is both helpful to the player and useful to the participation of the game.

Regarding claims 4 and 5, Nulph provides a prepaid wagering card that discloses date and identification information of the card provided on at least one side of the wagering card (fig. 4).

Regarding claims 7 - 9, and 11 – 13, Nulph provides a prepaid wagering card that is capable of having the activation or redemption information in a machine – readable form that includes at least a bar code or magnetic strip and is capable of being

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read by a reading device other a specific lottery terminal (col. 4, lines 3 – 6 and col. 6, lines 46 – 50).

Regarding claims 10 and 14, Nulph provides a prepaid wagering card that is capable of having the activation or redemption information in a machine – readable form, but is silent on the issue of the activation or redemption information being encrypted. In a related art, however, Katz provides a wagering card game where certain information is encrypted (par. 0119). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the activation or redemption information in the art disclosed by Nulph to be encrypted in order to provide extra security to certain information related to the user.

Regarding claim 18, Nulph provides a prepaid wagering card that includes designated area that can be used for a confirmation number (fig. 4).

Regarding claim 19, Nulph provides a prepaid wagering card that includes promotional information on at least one side of the card (fig. 4).

Regarding claims 20 and 21, Nulph provides a prepaid wagering card that includes instructional information on how to activate the prepaid wagering card on at least one side of the card (fig. 4).

Regarding claim 22, Nulph provides a prepaid wagering card wherein the predetermined lottery is identified on the card (fig. 5).

Regarding claims 24 and 25, Nulph provides a prepaid wagering card that discloses the use of a plurality of prepaid wagering cards that are identified uniquely so that the cards can be played individually (col. 1, line 58 – col. 2, line 14).

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Regarding claims 26 and 28, Nulph provides a method of playing a prepaid wagering card game that generates a plurality of random numbers and prepaid wagering cards, wherein each card having one or more spaces provided for the user in the format of a predetermined lottery (col. 1, line 58 – col. 2, line 14, and col. 6, lines 12 – 32).

Regarding claims 27 and 29, Nulph provides a method of playing a prepaid wagering card game that discloses storing the wagering card information in a database (col. 2, lines 2 – 5).

Regarding claims 38, 39, 42, 51, and 52, Nulph provides a method of playing a prepaid wagering card wherein the user communicates with the lottery system by submitting the card information to verify that the wagering card is valid or activated, (col. 2, lines 8 – 14), the user is also required to submit a first wager to the wagering system which is then transmitted to the lottery system through a second communications link and registers the first wager and is capable of transmitting a second wager from the lottery system and storing the second wager in the database (col. 2, lines 16 – 43, col. 7, lines 52 – 63).

Regarding claim 40, Nulph provides a method of playing a prepaid wagering card that teaches at least one of said communication links is the Internet (col. 1, lines 23 – 24 col. 4, lines 29 - 33).

Regarding claim 41, Nulph provides a method of playing a prepaid wagering card that teaches that the first communications link is a telephone line (col. 4, lines 30 – 31).

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Regarding claims 43 and 61, Nulph provides a method of playing a prepaid wagering card that teaches the use of voice communication (col. 4, lines 10 – 14).

Regarding claims 44 – 46, Nulph provides a method of playing a prepaid wagering card wherein the wagering card is operable to be wagered after activation of the card and at any time within the predetermined period time (col. 1, lines 27 – 39).

Regarding claims 54 and 55, Nulph provides a system of a prepaid wagering card that discloses a database that stores a plurality of random numbers of prepaid wagering medium, a data processor that is capable of accessing the database that when after a prepaid medium is purchased, the data processor receives the purchase information and changes the status of the prepaid medium and applies an activation date of the prepaid medium in the database, wherein a user wanting to place a wager with the prepaid wagering card, a communication session is established with the data processor, wherein the player provides identification information, the data processor determines whether or not the prepaid wagering card is valid and then forwards this information to the user, this information is then forwarded to a distributor along with any possible confirmation information (col. 3, line 55 – col. 4, line 2, col. 4, lines 29 – 52, col. 5, lines 13 – 19, and lines 41 – 51).

Regarding claim 60, Nulph teaches of how after the purchase information of a prepaid wagering card is transmitted by a server to the data processor (col. 1, lines 27 – 39).

**Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S. 6,203,011) in view of Katz (U.S. 2003/0060261).**

Regarding claims 10 and 14, Nulph provides a prepaid wagering card that is capable of having the activation or redemption information in a machine – readable form, but is silent on the issue of the activation or redemption information being encrypted. In a related art, however, Katz provides a wagering card game where certain information is encrypted (par. 0119). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the activation or redemption information in the art disclosed by Nulph to be encrypted in order to provide extra security to certain information related to the user.

**Claims 15 - 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S. 6,203,011) in view of Brandstetter (U.S. 2003/0036427).**

Regarding claims 15 – 17, Nulph is silent on the issue of a prepaid wagering card having a designated area for a user to put his/her name. In a related, however, Brandstetter provides a wagering game that teaches that a user is able to put his/her contact information on the wagering card (par. 0037). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include contact information into the art disclosed by Nulph in order to provide a better communication session.

**Claims 30 – 33, 36, 37, 47 – 50, 56, 57, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S. 6,203,011) in view of Protheroe (U.S. 5,216,595).**



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Regarding claims 30, 32, 33, 37, 47 – 50, 56, and 57 Nulph provides a method of activating and redeeming a prepaid wagering card but is silent on the issue of discussing the process of how to activate the card through the lottery retailers. In a related art, however, Protheroe teaches a method of activating a wagering card that is capable of determining what kind of retailer the card is being activated at that discloses lottery sales terminals, (col. 1, lines 38 – 41), that reads the card information purchased and forwards the information to the lottery processing system which in turn updates the information of the card and returns this information back to the requesting sales terminal to verify that the card is activated (col. 5, lines 32 – 59). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Protheroe into the art disclosed by Nulph in order to maintain a record of wagering card purchases to be included with the record merchandise transactions recorded by the sales terminals.

Regarding claim 31, Nulph provides a method of activating a prepaid wagering card, but is silent on the issue of wagers being processed in the same transaction as activating the prepaid wagering card. In a related art, however, Protheroe teaches a method wherein the wagers based on the wagering card are processed in a same transaction as activating the wagering card (col. 5, line 54 – col. 6, line 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Protheroe disclosed by Nulph in order to provide the customer with more convenience and satisfaction while purchasing a prepaid wagering card.

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Regarding claims 36 and 59, Nulph provides a method of activating a prepaid wagering card but is silent on the issue of the sales terminal being a point of terminal. In a related art, however, Protheroe teaches a method wherein the sales terminal is point of sale (POS) terminal (col. 1, lines 49 – 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a POS terminal into the art disclosed by Nulph so that the customer can purchase one or more wagering cards while checking out his or her merchandise purchases.

**Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nulph (U.S. 6,203,011) in view of Roberts (U.S. 5,772,510).**

Regarding claims 34 and 35, Nulph is silent on the issue of having sales information that includes the date and where the prepaid wagering card was purchased. In a related art, however, Roberts provides a wagering card game wherein the wagering card includes the date and time information at where the wagering card was sold (col. 4, lines 48 – 50). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include date and time information on the wagering disclosed by Nulph in order to provide a unique identifier for the card.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Thomas whose telephone number is (571) 272-1699. The examiner can normally be reached on 7a.m. - 3p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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